

1894-022 Chancery Causes: Elizabeth M. Barker vs. Malinda Legg &c  
Lee Co.

Bailey, Smith, Gates

CA - Estate Dispute  
T - Property  
Women

-Deed



To the Honorable W. T. Miller Judge of the  
Circuit Court of Lee County.

Humbly Complaining your oratrix Elizabeth  
Barker would respectfully represent and shew  
unto your honor that her husband Benjamin  
W. Barker Dec. in his life time owned, was seized  
and possessed of considerable real estate situated  
in the Crab Orchard Lee County State of Virginia.  
That before his death in the year 1875. he conveyed  
certain portions of said land to Malinda Legg, Eliza J.  
Bailey and Elizabeth R. Barker <sup>his daughters</sup> your oratrix joining in  
said deeds. A copy of which are here filed marked Exhibits  
"A", "B" and "C" and prayed to be treated as part of this bill -  
Now your honor will see from an inspection of  
said deeds that the vendors, Benjamin W. Barker and  
your oratrix retained possession and control of said land  
for the purpose of supporting themselves until they saw  
proper to deliver said land to the said vendors Malinda  
Legg, Eliza J. Bailey and Elizabeth Barker <sup>who afterwards married Saml. Smith</sup> And that from the  
time the said land was delivered to the vendors they were  
to support and maintain B. W. Barker and your oratrix  
<sup>during their lives until their death.</sup>  
Now your oratrix alleges that she and her husband  
B. W. Barker retained possession of said land and supported  
themselves until the day of 18 - at which  
time they delivered the possession of said land to their  
vendors Malinda Legg, Eliza J. Bailey and Elizabeth R. Barker <sup>Smith nee Barker</sup> that  
since the delivery of the possession of said land and since  
the death of your oratrix's husband B. W. Barker who died  
on the day of 18 - about six years ago, your  
oratrix has had to support and maintain herself by her  
own labor <sup>she being very old</sup> that the defendants and vendors Malinda Legg  
Eliza J. Bailey and Elizabeth R. Barker <sup>Smith nee Barker</sup> Contrary to the



1 the intent, purport and Consideration of said deeds  
2 have failed and refused to contribute even one cent  
3 to the support and maintenance of your Oratrix  
4 And still fails and refuses to do, And their failure  
5 has continued for about six years, all of which time  
6 your Oratrix has had to support and maintain herself -  
7 and furnish herself with the necessaries of life - that  
8 the defendants have been in possession of said lands  
9 during this time, Now your honor will discover  
10 from the said deeds referred to, that the certificate of  
11 acknowledgement is false, bad and defective <sup>as to your Oratrix</sup> And your  
12 Oratrix avers that - the Consideration of the said deeds  
13 have failed, in this that - the defendants Melinda Legg  
14 Elizabeth R. <sup>Smith and Parker</sup> ~~Smith and Parker~~ and Eliza J. Bailey fail and refuse to  
15 support and maintain your Oratrix according to  
16 the express terms and intentions of said deeds Therefore  
17 your <sup>Oratrix</sup> prayer is, that Melinda Legg, Eliza J. Bailey and  
18 Elizabeth <sup>Smith and Parker</sup> ~~Smith and Parker~~ be made parties defendants to this  
19 bill and require to answer the same but not on  
20 oath that being waived, that upon a hearing said  
21 deeds as to your Oratrix be set aside, vacated and annulled  
22 for a failure of consideration and that Commissioners be  
23 appointed to lay off and assign to your Oratrix her  
24 dower in said lands, but if mistaken in this relief  
25 asked for, your Oratrix would then pray a decree  
26 against the defendants for a decent support and  
27 maintenance during all the time which they have failed  
28 and refused <sup>and all time to come during her natural life - till her death</sup> to do, that proper process may issue and that  
29 your Oratrix may have such other further and general relief  
30 as the nature of her case may require, or to equity shall seem meet.  
31 And your Oratrix will ever pray etc -

M. G. Ely P.D.



Plffs Costs  
 recovered ~~\$8.03~~  
 C ~~\$976~~  
 S 1.50  
 atty 15.00  
 Court 18.00  
 Wits 7.00  
~~\$5126~~  
 C ~~25~~  
~~\$5151~~

Elizabeth Barber Peck

1533 Bill in Chancery -

Malinda Legg et al. Diff-

Chillicothe "2" "3" and "4" Rules.  
1894 2nd April Rules filed  
filed Spa Etc on  
Malinda Legg, W. J. Bailey  
+ Decree nisi as to Malinda  
Legg alias alias Spa  
and order of Elizabeth R. B. B. B.  
11 1st May Rules Decree nisi  
confd as to Malinda Legg  
+ continued  
11 2nd May Rules alias Spa  
not 2nd + Cause set  
for hearing by J. J. J.  
June Term Decree + Confd  
November term Decree  
final See Chy order Book  
Page 123.

4 Page 123.



To the Hon.W.T.Miller, Judge of the Circuit Court of Lee ~~County~~  
County, Virginia.

The separate demurrer and answer of Malinda Legg to a bill in chancery exhibited against her and others in this honorable Court by Elizabeth Barker.

Respondent says that complainant's bill is not sufficient in law to call upon her to answer in this honorable Court, but that there is good cause of demurrer thereto, and she demurs accordingly, and prays judgement of her said demurrer &c.

And not waiving said demurrer, but relying and insisting thereon, should other and further answer be required of her answering, she says:

That it is true that Benjamin W.Barker, deceased, was at one time in his life seized and possessed of some real estate situated in the Crab Orchard, in Lee County, Virginia; that it is further true that the said Benjamin W.Barker, in the year 1875, partitioned the remaining part of his land ( he before that time having conveyed a portion to his son, H.F.Barker, ) among his three daughters, to wit, Eliza J.Bailey, Elizabeth B.Barker and your respondent, by which your respondent received a small tract of land containing 30 acres, ~~by~~ which by deed dated on the 1st day of January 1875 was conveyed to respondent by both the said Benjamin W.Barker and the Complainant, a copy of said deed will be filed herewith as part hereof marked "1" if deemed necessary. It is true that by the terms of said deed the said B. W.Barker and the Complainant, his wife, reserved the right to hold said land in full possession, to manage and make his maintenance on the same until their death or until they saw proper to deliver it to your respondent. There is a further provision in said deed that the heirs or children of the said B.W.Barker and Elizabeth, his wife, were to maintain them from the time of the delivery of the full possession of said land. It is further true that the said B.W.Barker and Elizabeth, his wife, retained the possession of said land till about the year 1883 when they delivered the possession thereof to your respondent and about



the same time respondent's husband, J.K.P. Legg, purchased from Elizabeth R. Smith, nee Barker, the parcel of land conveyed to her by her father, and after that time the said J.K.P. Legg and the said B.W. Barker and Elizabeth, his wife, agreed that the said J.K.P. Legg should pay them the sum of \$30.00 each year for the ~~next~~ first two years after possession was delivered as aforesaid, and \$32.50 each year for the next two succeeding years. Respondent says, that pursuant to said agreement her said husband paid to the said B.W. Barker and his wife \$60.00 for said first two years, and during the next year at their request he paid them \$74.50 being \$42.00 on the next years. Settlement of which was made with the said B.W. Barker who just before his death which occurred in the latter part of the year 1888. By agreement, as respondent is informed, between the said husband and the said B.W. Barker, said \$42.00 thus overpaid as aforesaid was to be credited to this respondent <sup>her husband</sup> on her obligation for support and maintenance as set out in said deed aforesaid. Respondent says it is not true that her mother the said complainant has had to support and maintain herself by her own labor since the death of her husband, the said B.W. Barker, but on the contrary, respondent says that the said complainant went to and resided with her daughter Eliza J. Bailey for the first year after the death of her husband the said B.W. Parker. at the end of which year she came to respondent's and lived with her for the period of three years, during which time respondent cared for, maintained and supported the said complainant in as ample a manner as she was able, furnishing her with everything to use, and everything that was necessary for her use. Complainant left respondent of her own free will and accord against the earnest protestation of this respondent and her husband who begged with her to remain with them in the comfortable home that they were able to and did provide for her. Respondent is willing now as she always has all the time been willing to support, care for and maintain her mother, the said complainant, if she will only come and stay with her, but she fails to see



see either justice or charity in furnishing her money or other thing to be given away and expended on somebody else.

Respondent says it is true, as she is advised, that the certificate of acknowledgement to said deed is defective as to the acknowledgement of the same by complainant, and that perhaps if she wants to claim it that she would be entitled to assignment of dower out of the tract of land conveyed to respondent, but she is advised that before she can ask for such assignment, that she will have to account for the three years support and maintenance so bountifully furnished her by respondent and her husband. At the time respondent and her husband took possession of said land it was not worth more than \$5.00 per acre and the rental value would not have been more than \$10 \$15.00 per year. Respondent's husband has cleared up 10 or 12 acres and put it in a state of cultivation, has built a barn on it relying upon said deed and the support and maintenance furnished. And in no event could the complainant, as respondent is advised, be entitled to more than compensation in lieu of dower equal to one third of the rental value of said lands in the condition in which it was when possession was delivered to her. \*

Respondent says her mother is very old, childish, easily persuaded, and scarcely able to judge of what is best for her. *and in no condition mentally to attend to any business* And respondent here again offers to support and maintain her mother if she will come and live with her. What more she can do must be told to her by the court.

Respondent denies that said deed is invalid, ~~and~~ and if the court should be of opinion that ~~she~~ her said mother is entitled to dower or compensation in lieu thereof, then respondent asks that she be given compensation and that the court fix the amount thereof by its decrees so that there will be no uncertainty hereafter in the matter. And now having answered complaint's bill as fully as deemed material, respondent asks to be dismissed with her costs &c.

Duncan & Hyatt  
Attorneys.

Malinda Legg by  
Counsel

\* And also that the right of the plaintiff to set the same aside by writ has not been used to the plaintiff within five years before the institution of this writ



Mauida. Legg  
ans<sup>d</sup> by Deu. & Answer

Elizabeth Barker

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Filed April 18th 1894  
A B Munsey  
Clerk



To the Honorable W.T. Miller Judge of the Circuit Court of

Lee County: *Virginia*.

The <sup>separate</sup> demurrer and answer of Eliza J. Bailey to a bill exhibited against her and others in this Honorable Court by Elizabeth Barker.

Respondent says the Complainants bill is not sufficient in law to call upon this Respondent to answer in this Court.

And not waiving said demurrer but relying and insisting thereon, should other and further answer be required of her, answering, she says: That it is true that the said B.W. Barker was in his lifetime seized and possessed of a tract or tracts of land situated in the Crab Orchard in Lee County Virginia; that while so seized, he determined to partition his lands among his three daughters, he having before that time conveyed a parcel of his lands to his son H.F. Barker; that pursuant to that determination about the 1st day of January 1875, made deeds to each of his said daughters, to wit, Malinda Legg, Elizabeth Barker and your Respondent, It is likewise true that there is contained in the deed made to your respondent as well as in the deed to the said Malinda Legg and Elizabeth Barker a provision by which the grantor's reserved the right to hold the land in full possession and to manage and to make their maintenance thereon until their deaths, or until they saw proper to deliver it to the grantees. There is a further provision that the heirs of the said B.W. Barker, after the delivery to them of the possession of said land, were to support the said B.W. Barker and his wife.

Respondent will now show your honor that there were four of said heirs or children of the said B.W. and Elizabeth Barker, to wit, H.F. Barker, Malinda Legg, Elizabeth B. Barker who intermarried with Samuel L. Smith, and respondent, to all of whom the said B.W. Barker made conveyance of parts of his land, each one of whom, as respondent is advised, it was the intention of the said B.W. Barker and wife, to charge with a part of their support and maintenance.

Respondent will further show your honor that she did not get possession of the tract of land conveyed to her until after the death of the said B.W. Barker, which occurred in the latter



*X And Respondent denies that the said deed to respondent from plaintiff is invalid, and also that the right of the plaintiff to set the said aside by suit has accrued to the plaintiff within five years before the institution of this suit.*

part of the year 1888. And shortly thereafter your respondent by and at the request and with the consent of the said complainant sold the tract of land conveyed to her by the said B.W. Barker and wife to J.K.P. Legg, And in this conveyance the said complainant joined, all of which will more fully and at large appear by reference to the deed made by respondent, her husband and her mother, the said complainant, which is filed herewith as part hereof marked "2". So respondent says that she has no interest whatever in said land, nor does the complainant have any right, as your respondent is advised, to charge said land, thus conveyed to the said J.K.P. Legg, with any part any of her support and maintenance. X

Respondent says that it is not true that the said complainant, since the death of her said husband, has had to support and maintain herself. It is also untrue that her said children have not contributed anything to her support and maintenance, but on the contrary, immediately after the death of her said husband respondent took her and her stock consisting of a horse and two cows to her home and supported and cared for her and her stock in the best manner possible and with which no complaint was ever made so far as respondent knows. for the period of one year. At the expiration of which time she left respondent and went to the home of her daughter, Malinda Legg, where she remained for three years, or until about September or October 1892 when she left there and has since that time resided with her son, H.F. Barker. Both respondent and the said Malinda offered to keep and insisted upon the said complainant remaining with them, and it was her own voluntary act that caused her to leave. Respondent is still willing to keep her if she will only come and remain with her, but she protests against having to support another family under the guise of contributing to the support of her mother. Respondent says that the said complainant is now old and feeble in body and still feebler in intellect, and that in this suit, she believes that the said complainant is being influenced by others, and that it is not her own act which



induces this suit so much as it is the designs and influence of those with whom she is now living.

Respondent says that the complainant ought to be required to amend her bill so as to make the said H.F. Barker a party defendant thereto, it being as much his duty to assist in the support and maintenance of the complainant as it is of the other children.

And respondent having now answered said bill as fully as she is advised material, respondent prays to be hence to be dismissed with her costs &c.

Duncan & Hyatt, p.d.



Eliza J. Bailey  
ads  $\frac{3}{2}$  Answer.

Elizabeth Barker

Duncan & Hyatt, p. d.  
Filed April the 18th 1894  
A B Muncy clk



Elizabeth Barker

vs

} Secum

Malinda Legg et al

This cause came on this day to be heard upon the papers formerly read in the cause, the report of Leon's (S<sup>r</sup> A. Orr, Jr., and the exceptions thereto, and was argued by Counsel: Upon consideration whereof the Court is of opinion that H. F. Barker is not a necessary party to this suit. And the Court further decrees that the plaintiff recover from Elizabeth R. Smith the sum of \$100<sup>00</sup> as of this date and that ~~the~~ unless the same is paid within thirty days execution may issue therefor. And the Court further decrees that Malinda Legg pay to the plaintiff \$30<sup>00</sup> per annum payable semi annually from this date & if not paid at the time or any portions thereof become due execution may issue therefor.

And the Court further decrees that the plaintiff recover from ~~Elizabeth R. Smith~~ ~~Malinda Legg~~ the sum of \$30<sup>00</sup> per annum payable semi annually and unless paid when any part becomes due, execution may issue therefor.

Elizabeth R. Smith



And the Court further decrees that  
these sums of money shall be a  
lien on the land mentioned in  
the cause <sup>as stated by the parties</sup> and that the plaintiff  
recover from Elizabeth R. Smith  
and Malinda Legg her costs  
and the cause is stricken from  
the docket.

Elizabeth Barker  
vs Legg

Malinda Legg et al

Elizabeth Legg  
Q. V. B. Page 123

Superior Court  
this report

Lo. 12



Elizabeth Barker  
vs. J. C. Barker  
Malinda Legg et al.

This cause came on this day to be heard upon the bill of the plaintiff and exhibits therewith and the answers of the said Malinda Legg and Eliza Bailey. general replication thereto, and process having been duly served on Elizabeth B. Smith, she failing to appear and answer, plead and demur, the bill as to her is taken for confessed, and was argued by counsel. On consideration whereof and it appearing to the court proper, it is adjudged, ordered and decreed that Will A. Orr Jr. be and he is hereby appointed a Commissioner to ascertain and report whether or not the said defendants since the execution of said deeds, have supported and maintained said plaintiff, since the delivery of the possession of said land, whether or not they have failed and refused to support the plaintiff and how long their failure has continued, and how long she, the plaintiff has had to support and maintain herself, and whether or not her dower should be assigned her in said lands, and to ascertain what <sup>would be</sup> a reasonable sum to be contributed by defendants yearly, to the support <sup>and maintenance</sup> of said plaintiff, and whether or not H. F. Barker should be made a party defendant to this bill - <sup>what interest of any of H. F. Legg has in any of the lands</sup> and report any other matter deemed pertinent by said Commissioner as required by said parties. He will report his action to the next term of this court, and the cause is continued.

received in the bill



Elizabeth Barker  
vs. & Duerie  
Matilda Leggetts.

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Ent on Chy. Ord Book P 34.

Appointed to be  
for Carrier.

---

"A"

Enter this  
M J M  
Jan 11<sup>th</sup> 1894.



Deposition for plaintiff.

1 Virginia: In the circuit Court of Lee County

2 Elizabeth Barker

3 vs

4 Malinda Legg et als

} In Chancery.

5 The depositions of Elizabeth Barker

6  
7 <sup>Oral and before</sup>  
8 taken at ~~the Office of~~ Wm A Orr, Jr., Commissioner, in  
9 ~~England~~, Lee County, Va., on the 8th day of Oct,  
10 1894, which depositions when taken are intended  
11 to be read as evidence in the matter of account  
12 in said cause now pending before said  
13 Commissioner, and on behalf of the  
14 plaintiff.

15 Present: M. G. Ely atty for Plff <sup>and</sup> E. N. R. Ewing atty  
16 for Defs

17 Ques- State your age <sup>and</sup> whether you are plain-  
18 tiff in this suit-

19 Ans- My age was seventy five years old the  
20 17th day of last June - I am Plaintiff in  
21 this suit-

22 Ques- Please state how long your husband  
23 E. N. Barker has been dead?

24 Ans- Well he has been dead 6 years  
25 last Sept as well as I remember  
26 Died the 2nd day of Sept.

27 Ques- Please state whether or not the Defs.  
28 in this suit: Malinda Legg, Eliza J.  
29 Bailey and Elizabeth R Smith have  
30 supported and maintained you  
31 since the death of your husband  
32 pursuant to the terms to the order  
33 filed in this cause



Ans. 1 I have been supported part of  
 2 the time at Pell & Leggs about 3  
 3 years, as near as I can tell  
 4 was among my people part of  
 5 the time. My clothing and  
 6 medicines I bought with my  
 7 own money, that my father left  
 8 me. I had my things about  
 9 12 months at Will Bailey. I  
 10 eat there, think I took more  
 11 there than I eat

Ques. 12 Please state whether or not the Deft in  
 13 this suit have supported and  
 14 maintained you any for about  
 15 the last two years and if not who  
 16 has?

Ans. 17 They have done nothing in that  
 18 length of time for me except what I  
 19 have paid for. I have supported  
 20 and maintained myself with my  
 21 own money except a few  
 22 messes.

Ques. 23 Please state what amount of money you  
 24 think would be reasonable for  
 25 the Deft to contribute per year for  
 26 your support & maintenance.

27 This question is objectionable because  
 28 wholly immaterial, the deeds providing only  
 29 for support & it has been no where shown  
 30 that the defendants have refused to sup-  
 31 port the plaintiff.

22  
 Giving for  
 Deft.



1  
 2  
 3  
 4

Ans. 1. Story says and in my condition  
 I can't see how I could get along  
 with less than \$80.00 or \$90.00 per year  
 X

5  
 6  
 7  
 8  
 9  
 10

Ans. 2. Stole whether or not the defendants in  
 this case did not offer to take care of you,  
 Ans. 3. Of course they offered to and I came  
 and stayed with Bell Legg while  
 Mr Bailey while and I couldn't  
 stand it there.

11  
 12  
 13  
 14  
 15

Ans. 4. Did not Mr. Legg offer to build you  
 a room to yourself, tell you that  
 you could move into it?  
 The foregoing question is objected to because irrelevant  
 and immaterial. M. H. Ely atty for Off.

16  
 17  
 18

Ans. 5. He offered to build me a room  
 in his yard - it did not suit  
 me to stay there -

19  
 20  
 21

Ans. 6. Did not Mr. William Bailey make  
 you the same proposition?  
 This question is objected to reasons above stated

22  
 23  
 24

Ans. 7. They were to finance a house for me  
 to myself but they never done it.

25  
 26  
 27

Ans. 8. Did any of these defendants ever refuse  
 to do any thing toward your support  
 that was reasonable, if so what?

28  
 29  
 30  
 31  
 32

Ans. 9. Bell Legg said he would not do anything  
 for me unless I stayed at his house  
 that if I lawed him he would put  
 it off from time to time till I died  
 I told him I would law - I heard  
 this from others who said that he  
 said it.



Ques. 5. Did not Matilda Legg give you two  
 2 heavy linsey dress, & one worsted dress,  
 3 one calico dress, stockings, & such things  
 4 as there, while you lived at Mr. Legg's?

Ans. 5 And also one pair of shoes?  
 6 No sir she did not - I had yarn  
 7 and had it spun before I went  
 8 there - she put the chin in web  
 9 and it was woven for me -

Ques. 6. State whether or not H. F. Barker is a  
 11 son of yours?

Ans. 12 Yes sir he is a son of mine -

Ques. 7. Did he not his part of the estate  
 14 as did the other children?

Ans. 15 His father deeded his share of the  
 16 land either to others. The maintenance  
 17 was not put in his.

18 The foregoing question answer is objected to because  
 19 the deed from B. M. Barker and wife to H. F. Barker  
 20 is the highest and best evidence, M. G. Ely atty for P. G.

Ques. 8. How long has your son, H. F. Barker, been  
 22 in possession of his land, & estate  
 30 whether he did not raise his family there?

Ans. 23 I can't tell you - It's been between  
 25 22 and 23 years -

26 The foregoing question and answer is objected to  
 27 because the date of the deed is the best evidence,

Ques. 8. ~~Did not H~~ M. G. Ely atty for P. G.

29 Did not Mrs. William Bailey & his wife  
 30 at one time tell you that they would  
 31 support & take care of you whether any  
 32 one else helped or not?

Ans. The foregoing question is objected to because irrelevant  
 immaterial, self serving and highly inadmissible  
 M. G. Ely atty for  
 Off.



Ans. I don't remember whether he did or  
 not. I ~~reckon~~ they all would ~~all~~ have  
 supported me if I would have stayed  
 but I would not stay.

Ans. 10. Where do you now live?

Ans. My home is at Francis' ~~my son~~.

Ans. 16. Is your condition like there then  
 it would be at either of the other  
 places?

Ans. Yes in this case it is. there I  
 was mixed up in a family; now  
 I have a room to myself.

Ans. 12. Is there not children there, and are you not  
 not in considerable noise, and are you not  
 eat with the family?

Questions repeated because of immateriality  
 irrelevant &c

Ans. Yes there are children there - con-  
 siderable noise - I eat and work  
~~by~~ by myself.

And further this deposed oath not  
 Elizabeth ~~for~~ Barker  
 made



Virginia: In the Circuit Court of Lee County

Elizabeth Barton

vs

Milinda Legg et al

The depositions of J. J. Yates.

In Chancery

taken at the Crab Orchard in Lee Co. Va -  
on Oct. 8th 1894 before W. A. Orr, Jr. a  
Commissioner, which depositions are in-  
tended to be read as evidence in the matter of  
account in said cause now pending  
before said Commissioner, and on be-  
half of the Defendant Present: M. G. Ely  
Attorney for Plff. Q. Are you acquainted with  
Plff. Elizabeth Barton and were you  
acquainted with her at the time she lived  
with me? [Mrs. Milinda Legg]

A. I was -

I tell now all you know of our treatment  
of her while she was with us -

A. I was around her many times while  
she was here - stayed all night here &  
as far as I could see she was treated  
as well as a person could wish to be treated.  
They seemed to want to humiliate her to anything  
she seemed to want she was kinder  
old & childish. Heard Pa & Legg talking  
to her when she was talking to her of  
going away from here & he told  
her she was welcome to stay here and  
have such as he had



1 And when she wanted to visit her people  
2 she could have a horse & go when she  
3 pleased & come back when she  
4 pleased.

5 Q. ~~Did~~ The foregoing question and answer  
6 thereto is objected to because irrelevant,  
7 immaterial, hearsay, self serving and inadmissible.

8 W. G. Ely, atty for off.

9 Q. Did you hear him say that she  
10 could marry this her home and  
11 he would take care of her her lifetime  
12 without any expense to the him?

13 A. yes, I have heard him say  
14 it different times.

15 Q. Did you ever hear him offer to build  
16 her a house or furnish her a room  
17 so she could put her things to her use?

18 A. I don't remember that I did.

19 The foregoing questions and answers are objected to  
20 because hearsay, W. G. Ely, atty for off.

21 Q. Haven't you understood it all along  
22 that she was partial with me (Mildred  
23 Legg) wanting to take from me and give  
24 to the other him?

25 The foregoing question is objected to because  
26 irrelevant. W. G. Ely, atty for off.

27 A. From what I can see & find out - I  
28 have reason to believe that she is  
29 ~~as~~ I state what you know as to us being a  
30 a noisy family and disturbing old  
31 persons.

32 The foregoing question is objected to because  
irrelevant. W. G. Ely, atty for off.



31 A. I never saw any thing that would disturb the peace of any person while I have been around here.

Q. Don't you believe that it would be better for her (Peggy) to come and live with me or her mother than given, Mrs. E. P. Bailey, than to be out with some body that don't care for her with a dowry or a salary to destroy.

For your question is objected to because it is leading, immaterial, & irrelevant and a mere opinion of witness - M. G. Ely atty for P. & A.

A. My opinion is that home (St Paul Leggs) would be the best place for her to live - as I don't know very much about Bailey's.

Ques Please state what relation you are to the defendant in this suit Mrs. Matilda Legg?

A. I am her son-in-law.

Ques Are you acquainted with Mrs Elizabeth Barker the plaintiff in this suit, with her habits, customs and condition in life?

A. Am acquainted with her - not acquainted with her customs conditions or habits.

Ques Do you know where she now lives, if so where?

A. She lives at A. H. Barker's.

Ques How long has she been living there?

A. I don't know.

Ques Were you acquainted with her when she lived here with her daughter Mrs Matilda Legg? <sup>about</sup> How long since she left here?

A. I was acquainted with her while she lived here.



41

1 I don't remember what she did leave her

Ques 2 What do you think it would be worth to support  
3 the plaintiff Mrs. Elizabeth <sup>Boyer</sup> per year, that is to furnish her  
4 food and clothing and the necessities of life for a woman  
5 of her age and condition?

6 Question is objected to by Plff - Mildred Legg

7

8

9

Ans 10 I think a person could keep her for \$40 or 60  
11 years -

12 Rebuttal

Ques 13 Did you think either her children could afford to take her  
14 and take care of her at their homes for nothing  
15 For going question is objected to because it  
16 portends to make her own witnesses con-  
17 tradict himself M. G. Ely atty for Plff

Ans 18 I think they could take her and keep her  
19 for nothing if they wanted to -

20 Further in this department I wish not

21

J. J. Gates

(deems attendance)

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Question Withdrawn.

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1 Eliza J. Bailey, an othe witness of law-  
2 ful age, being first duly sworn  
3 deposes and says:-

Ques. 1. State whether or not you are  
5 made one of the defendants to the  
6 bill in this case, and state whether  
7 or not you are now interested in  
8 this controversy, if not why not?

Ans. 9 I am one of the Defts. The land that was  
10 conveyed to me, I sold to Mr. Legg  
11 My husband and mother joined in the  
12 sale. As directed me by the Deed we decided  
13 that land & him free from all in-  
14 cumbances. I have with file a  
15 certified Copy of said Deed marked  
16 "H"

Ques. 2. State whether or <sup>not</sup> you or your husband  
18 ever refused to support or care for your  
19 mother, the plaintiff in this cause?

Ans. 9 I never did - my husband never so  
21 far as I know of - Have heard my  
22 husband say he was willing to help take  
23 care of her. I objected to her leaving  
24 and so did he -  
25 above answer so far as it speaks of Mrs Bailey  
26 saying so & so is objected to on ground  
27 of irrelevancy M. R. Ely atty for Off.  
28 X

Ques. 1 Please state whether or not you have contributed or in  
30 any way helped to support and maintain your mother  
31 in the last two years?

Ans. 32 No sir I recollect not, that I know of.



61

1 Please state whether or not when your mother joined  
2 in the deed with you and your husband to J. K. P. Legg  
3 for the land deeded to you by B. W. Backer and wife, did  
4 she release you from your obligation to support and  
5 maintain her by your mother?

Ans 6 Don't know as she said anything about  
7 support. I can't answer yes or no -  
8 for there was nothing said about it -  
9 she was in her right mind and caused  
10 the deed to be made as it was

11 She died -

12 Tell what you know of the circumstances  
13 under which Mr. Legg & also your-  
14 self, offered to keep your mother?  
15 objected to because irrelevant and immaterial

M. G. Ely attorney

Ans 16 The home I offered her was as good as she was  
17 use to. It was a comfortable & neat home -  
18 we offered her a room to herself -  
19 Mr. Legg was better prepared to take care of her  
20 than we were - except as to the rooms  
21 which were about the same -

22 She got willing to take care of her if she  
23 will come and stay with me -

24 He X - -

25 Are you now willing to contribute anything to  
26 her support and maintenance and let her live at  
27 a home of her own?

Ans 28 No unless she will come and live at  
29 my home

30 And further this Deponent oath not -

31 Eliza J. Bailey

(Hansatendance)



71  
1 Jas. M. Holcomb another witness of lawful  
2 age being first duly sworn deposes and  
3 says:

Sw. 1. 4 State whether or not you know all the  
5 parties to this suit, and state where  
6 you were living at the time Mrs. Barker  
7 says she was living with her daughter,  
8 Mrs. Molinda Legg, still all you know  
9 of her treatment while she was there?

(10 Objected & because its irrelevant and immaterial)

M. G. Elg Attorney at Law

11 I know all the parties to this suit. I was  
12 working for Mrs. Legg. Mrs. Barker was treated  
13 as well as a person could expect to be treated  
14 at any place. She was kindly treated at the  
15 table as well as at any other place in the house.  
16 If she wanted any thing that was not on the  
17 table it would be fixed for her if she could  
18 not do it herself. A chair was put to the  
19 table by Mrs. Legg or some of the family  
20 for her, when she did not take it her-  
21 self. Mr. Legg offered all kinds of offers if she  
22 would stay with him - offered a little  
23 room in his parlor if she wished it  
24 or put one in the yard or close by  
25 where he or some of his family could  
26 attend to her. said she would rather be  
27 with ~~her~~ at the old home where she once  
28 lived. He told her he did not feel it  
29 safe for her to go there, for he could not  
30 see after her so well - nor could his  
31 children go that far to look after or wait  
32 on her.



1 He offered her a horse & go where  
2 she pleased and furnish her a horse  
3 to go with her if she would remain  
4 with him where he could see after  
5 her - if it was not some unnecessary  
6 place where it would injure him  
7 in his crop that he would take her  
8 or furnish a hand to go when she  
9 got ~~married~~ <sup>married</sup> he would furnish her  
10 shoes without charge

11 The foregoing answer is objected to because  
12 it is chiefly hearsay M. G. Ely atty for Plff  
13 I ~~heard~~

14 Ques. How do you know these things?

15 Ans. I saw them and heard them -

16 Ques. Did you ever hear any of Mr. Legg's  
17 family speak ~~unnecessarily to~~  
18 ~~of~~ Plff -

19 Ans. I never did -

20 Forgoing question & answer is objected  
21 to because irrelevant and immaterial and  
22 hearsay - M. G. Ely atty for Plff

23 - X -

24 Ques. When did you begin to work for Mr.  
25 Legg -

26 Ans. I don't remember what year - but was  
27 the first year Plff came there

28 Ques. How long did Plff live at Mr. Legg's  
29 I think she lived there about 3 years

30 Ques. How much of that work was done there

31 Ans. I think I worked there 3 years she stayed  
32 there 3 years and on

33 And further this Deponent hath not  
34 Jas. M. Halcomb  
35 ~~heard~~

(I don't allude to)



Q.

Samuel L. Smith <sup>witness of</sup> lawful age  
~~witness~~ being first duly sworn  
deposes and says:-

Preliminary Examination

Ques. Please state what relation ~~that~~

you are to Elizabeth R Smith

one of the Defts in this suit

Ans. Am her husband

The foregoing witness is objected to

because he is the husband of one

of the Defts. M. G. Ely atty for Plff

Ques. Do you know Melinda Legg & Eliza

Bailey, some of the defendants, if so state

whether or not you were about the home

of Melinda Legg while her mother the

defendant in this cause, lived with

her, tell all about said plaintiff's

treatment by Mrs. Legg & the family?

Ans. I think I do know deft named - was

at Mrs. Legg's for some time while Mrs. Barker

lived there. As far as I could see her

treatment there was as good as a person

could wish. I saw nothing to mar

her <sup>peace &</sup> happiness there. I was at work

there and came in one day at 12. She

seemed to be wanting to get herself at the

old home place. Mr. Legg asked me to

go in with him. & he would try to satisfy

the old lady. He asked her to explain

herself why it was that she wanted to go to

the old place. She said she wanted to get

her things to herself



1 He asked her what she could do with her things in case  
 2 she had them herself. Asked her if she thought she would  
 3 be sorry if she had nothing to live on and some one of  
 4 her grand children with her than she would  
 5 in the house with some of her children with  
 6 the care of her child and grand children  
 7 He told her she was perfectly welcome to stay  
 8 with him as long as she would and he  
 9 would be no burden to the other heirs. He  
 10 told her his table would be her table his fireside her  
 11 fireside. If there was anything her appetite  
 12 could eat that he didn't know all she had to do  
 13 was to name what she wanted if it was in the bounds  
 14 of the railroad he would get it; Told her if she  
 15 was not satisfied in his house with them  
 16 he would leave her a house or room fixed  
 17 to her self and if she wanted to go any trip that was  
 18 not unnecessary he would furnish her means  
 19 to go and see her returns of day without any  
 20 burden to any of the other heirs  
 21 For any question and answer thereto are objected  
 22 to because immaterial irrelevant, hearsay, self  
 23 serving and highly inadmissible

My. Ely atty for Pff  
 Mrs. Legg

~~Q. Stole what  
 are you knowing as to her being partial to me  
 20 wanting to take some here and give to the rest  
 21 of the heirs?~~

~~Ans. I am knowing whether being partial -~~

~~For any question is objected to because it is  
 29 irrelevant + immaterial + leading~~

My Ely atty for Pff

31 Stole what you know of partiality  
 32 on the part of Mrs. Barker toward her  
 daughter, Mrs. Legg?

The above question is objected to because it is  
 irrelevant, immaterial My. Ely atty for Pff



Ans 1 I think she was

Ques 2 If you ever heard Mrs. Barker, plain-  
3 tiff, say why she brought this suit, tell  
4 about it?

Ans 5 I have heard her say that if she could get  
6 ~~her~~ land back she could give it to who she  
7 pleased. She told my children in my presence  
8 that if she could get the land back she would  
9 have a home for them. She also said  
10 that Bell and Malinda had means and she  
11 wanted to make it off of them.

12 The foregoing questioned answers are objected to  
13 because it is ~~not~~ irrelevant and immaterial.

M. G. Ely atty for P. B.

Ques 14 Tell what you know of whether or not  
15 H. F. Barker is an heir of B. W. Barker,  
16 if you ever heard B. W. Barker say any-  
17 thing about the deed which he made  
18 to his son H. F., state what it was?

19 The foregoing question is objected to because irrelevant  
20 immaterial hearsay and because B. W. Barker is dead.  
21 and because H. F. Barker is not a party to this suit.  
22 And the deed is the highest and best evidence.

M. G. Ely atty for P. B.

Ans 23 Have always heard H. F. Barker was an heir of  
24 B. W. and Elizabeth Barker. Heard B. W. Barker  
25 speak of the deed he made to Francis Barker - he  
26 said he had not mentioned any maintenance in  
27 his deed. though he said when he fell short-  
28 and could not maintain himself that he expected  
29 and aimed for Francis to do his part in re-  
30 gard to maintenance.

Ques 31 Please state what your wife Elizabeth  
32 R. Smith has done toward her support



12

1 and maintenance of Pff. not dissatisfied  
2 since the death of B. M. Barker

Ans- 3 I don't suppose she has done any thing more  
4 than offered her to come and stay with us and  
5 fare with us. We wanted to do her the best  
6 we could. We both offered her that much  
7 as further disservice to it with not  
8 Samuel L. Smith

9 Attendance 2 days  
10 one at 2 p.m.

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1 Jas R. P. Legg another witness of lawful age  
2 first being duly sworn deposes and  
3 says:

4 Ques How far have you heard what the other witness  
5 has said as to you, your wife or the other de-  
6 fendant in this case taking care of the  
7 plaintiff, if so would you move  
8 about the same statement?

Ans 9 I would.

10 The question and answer are objected as immaterial  
11 incompetent and insufficient.

12 M. J. Ely atty for Plff.

13 Ques How long before the institution of this suit  
14 had your wife, Malinda Legg, had pos-  
15 session of the land deed to her by her  
16 father by deed bearing date 1, 1875,  
17 which is here sought to be sub-  
18 jected to dower?

Ans 19 She had possession from 13 to 15 years  
20 before the institution of this suit.

21 Object to on account of immateriality and  
22 irrelevancy.

23 M. J. Ely atty for Plff.

24 Ques State whether or not you furnished the  
25 plaintiff any wearing apparel while  
26 she lived with you or your wife?

Ans 26 I did.

27 Ques State the difference between the land  
28 which was conveyed as above stated now  
29 and at the time your wife got posses-  
30 sion?

Ans 31 It was in a bad condition regarding fencing  
32 In <sup>swamp</sup> briers, brush, no improvements  
worth anything at all upon it. Since that  
time we have cleared it all off.



1 dried out the swamps by ditching, cleared  
2 and set it in grass and meadows and  
3 built a large Barn on it. Reared  
4 good fencing all around it.

5 Objected to because it's irrelevant & im-  
6 material

W. Ely atty for Plff

7 Inq. If you ever heard B. M. B. or her say  
8 any thing about emitting any thing from  
9 the deed which he made his son, W. F.,  
10 Tell all about it?

11 For going question is objected to because  
12 it's irrelevant, immaterial, hearsay and  
13 because B. M. B. is dead

W. Ely atty for Plff

14 Ans I grew up with the Deeds myself. The  
15 old man said he intended for Francis  
16 to help maintain him and wife  
17 equally with the other sons

18 The deed to Francis was made several  
19 years before the others consequently  
20 the provision for support  
21 was left out of Francis's Deed

- X -

22 Inq Please state what your wife Melinda  
23 Ligg has done in the way of support  
24 and maintenance for Plff in the  
25 past two years

26 Ans She has offered her support all the  
27 time if she could come and stay  
28 with her at her own house  
29 or if she could save it and not  
30 give it away to some one else



Q<sup>uo</sup> Has she contributed anything  
toward her support in the last  
two years -

A<sup>ns</sup> She has done nothing except as  
above stated -

Sworn this Dependent Court not  
James K. P. Legg  
(2 days attendance)

Milinda Legg another witness of law-  
ful age first being duly sworn deposes  
and says -

Q<sup>ues</sup> Are you one of the defendants in this  
suit, if so state how long you have  
been in possession of the land bequeathed  
by your father, which is here sought to be  
subjected to dower? Tell all you know  
about this case -

A<sup>ns</sup> Yes, Sir, I am - Can't exactly tell how  
long but think it about fifteen years  
though he tended some on the  
land by my permission  
After my father's death she went to  
Bridge, and begging him to come  
and let me take care of her -  
as my father requested me to a  
short time before he died saying  
he wanted his debts all paid and  
everything divided equally as his  
deed called for and myself and  
Ed Bridge to take her and care for  
her. After she stayed there about



1 Eleven months she came to my  
2 house, told me she wanted to  
3 come and live with us - Claimed  
4 that she would like to go ~~in~~ ~~the~~  
5 in old house which she sold  
6 with Bailey to Park - He ~~and~~  
7 I told her she could not be off  
8 there ~~change~~ if she would come  
9 and live with us we would provide for  
10 her her lifetime without any expense  
11 to any of the heirs. And I understood  
12 she took us up at our contract and  
13 asked him to go and move her little  
14 bit of plunder there. We fed her,  
15 clothed her, and cared for her during  
16 the 3 years she lived with us -  
17 She took a notion to stay with  
18 Francis awhile - her excuse being  
19 he ought to take care of her & soul  
20 as well as us and Bailey.  
21 I am not willing to take any  
22 mother (the Plff.) and take care  
23 of her if she will live with me so she can't  
24 give her living away to the rest of the heirs  
25 She gives away what she gets as fast as she  
26 gets it. Some of the clothes I gave her  
27 she gave to Francis's family  
28 - X -

29 Ques. Please state whether or not you are willing  
30 to contribute anything to the support of  
31 your Mother and let her live at  
32 a house of her own

Ans. I am not - because she has no  
house of her own and no one to take  
care of her I am not capable of taking care  
of any thing she gets - Milinda L. Seyz  
(2 days after)



Virginia }  
Lu Co } Locust:

The foregoing deposition

of Elizabeth Barker, J. J. Gots, Eliza J. Bailey, J. M. Holcomb, Samuel L. Smith, J. R. P. Legg and Malinda Legg were taken subscribed and sworn to before me at the time and place and for the purposes in the caption mentioned

Given under my hand  
this Oct. 2, 1894.

M. J. Long

Commissioner



Virginia

In the Circuit Court of Lee County  
Elizabeth Barker

vs.

Melinda Legg

On the 11th day of June 1875  
Wm. Judge of said Court your  
under signed Commissioner being  
present to report that he has  
to execute said Wm. Judge  
and the said Wm. Judge and other  
keep to which the undersigned

has been ordered to state June  
11th 1875 and the undersigned  
copy of which is here filed under  
118

Before me on the 11th day of June 1875  
your Commissioner given notice  
to the Court of the Plaintiff  
Defendant of the same and filed of  
the same

Your Commissioner reports that the  
Plaintiff has been supported <sup>and maintained</sup> by one of the  
Defendant Melinda Legg <sup>and her husband J. R. P.</sup>  
Legg for about three (3) years at their home  
since the execution to the said Melinda  
Legg of a Deed bearing date Jan. 1. 1875  
by the said Elizabeth Barker and B. M. Barker  
and also that said Plaintiff has been sup-  
ported and maintained for about one  
(1) year by Eliza J. Bailey one of the  
Defendants, and her husband Wm. Bailey



at their house since the execution of a  
deed <sup>Dec. 1, 1875</sup> to the said Eliza J. Bailey by  
the said Elizabeth Barker and B. M. Barker.  
The support above mentioned has been  
rendered since the possession of the lands  
is deeded to the said Malinda Legg and  
Eliza J. Bailey by B. M. Barker and  
Elizabeth Barker his wife.

Your Commissioner reports that such  
failure as to the Defendants has been  
for ~~about~~ two (2) years.

That the Plaintiff Elizabeth Barker has  
for two years supported herself.

That on account of the acknowledged  
of the deed <sup>mentioned</sup> made ~~by~~ by B. M. Barker and  
Elizabeth Barker <sup>to Malinda L. Legg</sup> being defective as  
to Elizabeth Barker said Elizabeth  
Barker is entitled to the assignment of  
her dower to the lands mentioned in  
the said deed executed to that defendant  
~~her~~ <sup>in lieu of dower</sup> unless she has by election taken support and maintenance  
as to the amount which would be reason-  
able for the Defendants to contribute  
annually for the Plaintiff's support  
and maintenance, your Commissioner  
reports that in his judgment \$ Fifty Dollars  
(\$50.00) would be a reasonable amount  
for such support and maintenance.

He also reports that H. L. Barker  
should be made a party Defendant  
to this suit he being a son of B. M. Barker  
That J. N. P. Legg has possession



of Sixty (60) acres of the real estate  
that was owned by the said B. N. Barker  
and Elizabeth Barker, his wife.  
Malinda Legg receiving by deed 30  
acres from the said B. N. Barker and  
Elizabeth Barker; and has purchased  
30 acres from Eliza J. Bailey and  
Wm. J. Bailey her husband and Elizabeth  
Barker, the same being the 30 acres  
as conveyed from B. N. Barker  
and wife Elizabeth Barker to their  
daughter Eliza J. Bailey.

Your Commissioner also would  
respectfully report that each and  
all of the Defendants have offered  
her their possession of the lands  
herein mentioned, and still  
offer to support and maintain the  
Plaintiff if she will live with  
them or any of them at their houses  
but each refuse to do so, or  
contribute to her support, and  
allow her to live where she

pleases.

Respectfully Submitted

W. A. Orr Jr.

Commissioner

The above report is excepted to  
because,

1. The commissioner improperly re-  
ports plaintiff entitled to dower.







1 Know all men by these presents that this indenture  
2 of bargain and sale made and entered concluded upon  
3 this Jan. 1st, A.D. 1875 between Benjamin W. Barker and  
4 Elizabeth Barker his wife of Lee County and state of Va.  
5 of the one part and Molinda L. Legg of the County and state  
6 of the other part. Witnesseth, whereas the said  
7 Benjamin W. Barker and Elizabeth his wife has. for and in  
8 consideration of the sum of one dollar paid in hand the  
9 receipt whereof we do acknowledge, do hereby give, grant and  
10 sell convey and have bargained sold and delivered unto the  
11 said Molinda L. Legg and her heirs and assigns a certain tract  
12 or parcel of land containing 30. thirty acres be the same more  
13 or less, lying in the County of Lee and state of Virginia situated  
14 in the crab orchard and bounded as follows, viz:  
15 Beginning on a stake a corner of H. F. Barkus on the old Poston  
16 line running with the line thereof North 15 East to a white  
17 oak, it being the original Poston corner, thence N. 27 W. 22 poles  
18 to a black and dogwood on top of a ridge, thence N. 85 E. 25 poles to a  
19 poplar by the long bridge thence S. 55 E to a beech at east end of  
20 long bridge, thence southward a straight line to a crab apple sapling  
21 on bank of big crab orchard creek thence eastward with  
22 meanders of the creek to a white oak and iron wood sapling, thence  
23 southward to two black gums. corner to H. F. Barker land, thence N. W.  
24 westward to Beginning, running with H. F. Barkus line. To have and to  
25 hold the same with all its appurtenances unto the said Molinda L.  
26 Legg her heirs and assigns to their sole use and behoof forever  
27 and we do covenant with the said Molinda L. Legg and her  
28 heirs and assigns that they are free of all incumbrances, that we  
29 will warrant and defend the same to the said Molinda L. Legg her  
30 heirs and assigns forever warrant and defend the same against all  
31 lawful or unlawful claims and demands of all persons whomsoever  
32 in witness whereof we hereunto set our hands and affixed  
our seals this Jan. 1st 1875 A.D. N.B. The said B. W. Barker and Elizabeth  
his wife reserves the right to hold said land in full possession to labor and  
to manage to make his maintenance on same until their deaths or until



1 they see proper to deliver it to the proper owner also the heirs  
2 is bound to maintain the said B. W. Barker and Elizabeth his  
3 wife at time of delivery and full possession of said land, the  
4 said B. W. Barker binds his heirs not to sell the land to any person  
5 outside his heirs before his or her death and then to give the heirs the  
6 refusal of purchase and at the refusal of said heirs the said owners  
7 of said land are at liberty to sell it to any person whomsoever  
8 they please in witnesses whereof we have hereunto set our hands  
9 and affixed our seals the day and year above mentioned

B. W. Barker *(seal)*

11 State of Va. County of Lee to wit:-

E. W. Barker *(seal)*

12 I Carr Bailey a notary public for the county of aforesaid in the  
13 state of Virginia do certify that Benjamin W. Barker and Elizabeth  
14 Barker his wife whose names is signed to the writing hereto  
15 annexed, bearing date on the 1st day of Jan. 1875 has acknowledged  
16 the same before me in my county of aforesaid, the said Elizabeth  
17 Barker being examined by me privately and apart from her husband  
18 and under my hand this Jan. 15, 1875, Carr Bailey N.P.  
19 Virginia. Lee County Court clerk's office the 6th day of May 1878  
20 The foregoing deed from Ben. W. Barker and Elizabeth his wife of  
21 the one part, to Malinda L. Legg of the other part, all the <sup>Lee</sup> County  
22 Virginia was this day admitted to record upon the certificate of  
23 Carr Bailey a Notary Public in and for the county and state of aforesaid.

Teste R. W. Orr Jr. D.C.

25 A Copy - Teste: S. V. F. Richmond Clerk

B. W. Barker and Wife

7/23 copy of deed

Malinda L. Legg

"A"



1 Know all men by these presents that this indenture of bargain and  
2 sale made and concluded upon this Jan. 1<sup>st</sup> in the year of our  
3 Lord 1875 between Benjamin W. Barker and Elizabeth M. Barker  
4 his wife of the County of Lee and State of Virginia of the one part  
5 and Eliza J. Bailey of the other part of the County and State of said  
6 Witnesseth whereas the said B. W. Barker and Elizabeth M. his wife  
7 has for and in consideration of the sum of one dollar paid in  
8 hand the receipt whereof we do acknowledge do hereby give grant  
9 sell and convey and have bargained, sold and delivered unto the  
10 said Eliza J. Bailey and her heirs and assigns a certain tract or parcel  
11 of land containing thirty acres be the same more or less lying  
12 in the County of Lee and State of Virginia, situated in the Crob Orchard  
13 on the big Crob Orchard Creek, and bounded as follows viz:  
14 Beginning on two black gums corner to H. H. Barkers land on top of  
15 a ridge and running northward a straight line to a white oak and  
16 hawwood sapling on the bank of big Crob Orchard Creek thence  
17 westward with meanders of said Creek to a crob apple tree thence  
18 northward a straight line to a beecher line between Barker &  
19 Clingers heirs at East end of the long bridge, thence S. 55 E. to a maple  
20 a corner to Richard Morris's land and with his line N. 88 E. 22 poles  
21 to a maple and dogwood corner to Clingers land and with line thence  
22 S. 8 E. 52 poles to a stake on the bank of the big Crob Orchard and  
23 down with the meanders of the same to a water birch thence  
24 southward to two black gums on top of the ridge, thence westward  
25 to the beginning. To have and to hold the same with all its appur-  
26 tenances unto the said Eliza J. Bailey and her heirs and assigns to their  
27 sole use and behoof forever and we do covenant with said Eliza J.  
28 Bailey and her heirs and assigns that they are free of all encumbrances  
29 that we will warrant and defend the same to the said Eliza J. Bailey  
30 and her heirs and assigns forever. Forever warrant and defend the  
31 same against all lawful or unlawful claims and demands of all  
32 persons whomsoever in witness whereof we hereunto set our hands  
and affix our seals this Jan. 1<sup>st</sup> 1875. The said B. W. Barker and Elizabeth his  
wife reserves the right to hold said land in full possession to labor on for his  
support & maintenance until they see proper to deliver the same to the proper owner  
also the heirs to bound to maintain said B. W. Barker and wife at time of delivery  
and possession of said land. The heirs bind themselves not to sell said



land to any person outside the heirs until the death of said B. W. Barker  
then they bind themselves to give the heirs the first refusal or chance  
of purchase and at the refusal of said heirs they are at liberty to  
sell to any person they see proper. In witness whereof we have  
affixed our seals the day and year above <sup>mentioned</sup> ~~written~~ set our hand &c -

B. W. Barker *[Signature]*

E. W. Barker *[Signature]*

State of Virginia county of Lee to wit: -

I Can Bailey a notary public for the County of aforesaid in the State of  
Virginia do certify that Benj. W. Barker & Elizabeth Barker his wife  
whose names is signed to the writing hereto annexed, bearing  
date on the first day of Jan. 1875 has acknowledged the same before  
me <sup>in any county of aforesaid</sup> ~~privily and apart~~ the the said Elizabeth Barker being examined  
by me privily &c apart from her husband. Given under my hand  
this Jan. 15<sup>th</sup> 1875. Can Bailey N.P.

Virginia Lee County court clerk's office the 17<sup>th</sup> day of May 1878.  
The foregoing deed from Benj. W. Barker & Elizabeth M. his wife of the  
one part to Eliza J. Bailey of the other part, a copy of Lee County  
Va. was this day admitted to record on the certificate of Can  
Bailey a notary public in and for the County and State of aforesaid

Teste A. W. Carr, Jr. S.C.

A Copy - Teste: S. V. F. Richmond Clerk

'B'

B. W. Barker adm'd  
7/22 Copy of record  
Eliza J. Bailey



Know all men by these presents, that this indenture  
of bargain and sale made and concluded upon January 1<sup>st</sup>  
in the year of our lord 1875, between Benjamin W. Barker  
and Elizabeth Barker his wife of Lee County and State  
of Virginia of the one part and Elizabeth R. Barker of the  
County and State aforesaid of the other part.  
Witnesseth whereas B.W. Barker and Elizabeth his wife has  
for and in consideration of the sum of \$1.00 one dollar, in  
hand, the receipt whereof we do acknowledge, do hereby give  
grant and sell, convey and have bargained, sold and  
delivered unto the said Elizabeth R. Barker and heirs  
and assigns a certain tract or parcel of land containing 45  
acres, forty five acres be the same more or less, lying in the County  
of Lee and State of Virginia, situated in the Crab Orchard bounded  
as follows viz: Beginning on a spruce pine corner to H.F. Barker's  
land on Wells Branch, thence northward with same line to  
two black gums <sup>corner to H.F. Barker's land thence eastward to two black gums</sup> on top of the ridge, thence N.W. to a water  
birch on bank of Big Crab Orchard thence up, with meanders of  
thence up with meanders of same creek 42 poles to a stake  
creek to a stake S. 30. E. 62 poles to a stake on said wells branch  
and down <sup>with</sup> the meanders of the same to beginning, to have  
and to hold the same with all its appurtenances unto the  
said Elizabeth R. Barker and heirs and assigns forever, We will  
forever warrant and defend the same against all the lawful  
and unlawful claims and demands of all persons whatsoever.  
In witness whereof we hereunto set our hands and affix our  
seals. This January 1<sup>st</sup> 1875. The said Benjamin W. Barker and  
Elizabeth his wife reserves the right to hold said land in  
full possession to labor and support and maintain himself or  
for his support & maintenance until they see proper to deliver  
said land to the proper owner, Also the heirs is bound to maintain  
said B.W. and Elizabeth Barker at time of delivery and full  
possession of said land, the heirs bind themselves not to sell



1 said land to any person outside the heirs until their death  
2 then the heirs bind themselves to let the heirs have the first  
3 refusal of said purchase in land and at the refusal of said  
4 heirs they are at liberty to sell to any person whomsoever in  
5 witness whereof we have set our hands and seals the  
6 day and year above mentioned. Now if the said Elizabeth  
7 R. Barker shall die without children. Then said land shall  
8 go to my lawful heirs B. W. Barker *E. B.*  
9 E. W. Barker *E. B.*

10 State of Virginia. County of Lee to wit; -  
11 I bear Bailey a Notary Public for the County of aforesaid  
12 in the state of Virginia. do certify that Benjamin W. Barker  
13 and Elizabeth Barker his wife whose names is signed  
14 to the writing hereto annexed bearing date on January 15<sup>th</sup>  
15 1875 has acknowledged the same before me in my County  
16 of aforesaid. the the said Elizabeth Barker being examined  
17 by me privily and apart from her husband. Given under  
18 my hand this January 15<sup>th</sup> 1875.

19 I bear Bailey N. P.  
20 Virginia Lee County Court Clerk's office the 17<sup>th</sup> day of May  
21 1878. The foregoing deed from B. W. Barker & Elizabeth his wife  
22 of the one part to Elizabeth R. Barker of the other part. all of  
23 Lee County Virginia of the other part. was this day admitted  
24 to record upon the certificate of I bear Bailey Notary Public  
25 do and for the County and state of aforesaid.

26 Teste R. W. C. Jr. D. C.  
27 A Copy - Teste: D. V. H. Richmond Clerk  
28  
29  
30  
31  
32



B. H. Barker and Wife

To } Copy of Deed.

Elizabeth R. Barker

Exhibit 'a'



This November 2, 1888.

D. B. 222  
P. 10423  
S. 117.11  
C. 117.11

Know all men by these presents that  
this indenture and bargain and sale  
made between Eliza J. Barker and Wm. J.  
Bailey her husband and Elizabeth M.  
Barker her mother in the County of  
Lee and State of Virginia of the first  
part, and James W. P. Lee of the above  
mentioned County and State of sec-  
ond part Witnesseth that the said par-  
ties of the first part in consider-  
ation of the sum of six hundred dollars  
in lawful money of the United States  
to them in hand paid by the party  
of the second part at or before en-  
sealing and delivery of these presents  
the receipt whereof is hereby acknowledged  
and the said party of the second part  
his executors and administrators for-  
ever released and discharged from the  
same by these presents has granted  
bargained sold aliened remised  
released conveyed and confirmed  
confirmed unto the said party of the  
second part and to his heirs and  
assigns forever all that parcel or  
tract of land situated in the Crab  
Orchard County of Lee and State  
of Virginia containing 30 acres be the  
same more or less lying on the wa-  
ter of Big Crab Orchard Creek and  
bounded as follows viz Beginning



1 A two black gums a corner of N. F.  
2 Baskers land on top of a ridge and run-  
3 ning northward a straight line to a  
4 white Oak and iron wood sapling  
5 on the Bank of the Big Crab Orchard  
6 Creek; Thence westward with meander-  
7 ing of said creek to a crab Apple tree  
8 thence northward a straight line to a  
9 beech on line between Baskers and  
10 Oliver heirs at E. end of the long  
11 bridge thence South 55 E to a maple  
12 a corner to Richard Morris land and  
13 with his line N 88 E 22 poles to a maple  
14 and dogwood corner to Olingers land  
15 and with same line the w of S 88 52  
16 poles to a stake on the bank of the  
17 big Crab Orchard Creek and down  
18 with the meandering of the same to  
19 a water birch thence Southward to  
20 two black gums on top of a ridge  
21 thence westward to the Beginning.

22 That the described premises is free  
23 and clear of all incumbrances what-  
24 soever the above or aforesaid described  
25 tract or parcel of land contains 30 Acres  
26 by the same more or less to have & to  
27 hold the same together with all and  
28 singular the tenements hereditaments  
29 and appurtenances thereto belonging  
30 or in anywise appertaining, and the  
31 reversions and reversions and remainder  
32 and remainders unto issues and



1 profits thereof, and also all the rents  
2 estates right title interest dower &  
3 dower right and property possession  
4 blood claim and demand what so  
5 ever, both in law and in equity  
6 of the said parties of the first part  
7 or in and to the above granted  
8 premises and every part and parcel  
9 thereof with the appurtenances. ~~To have~~  
10 ~~and to hold the above mentioned~~  
11 ~~and described premises with the ap~~  
12 ~~purtenances~~ To have and to hold the  
13 above mentioned and described prem-  
14 ises with the appurtenances and every  
15 part thereof to the said party of the  
16 second part his heirs and assigns  
17 forever, and the said Euzaj. Bailey  
18 and Mrs. Bailey her husband and  
19 Elizabeth M. Barker her mother and  
20 their heirs, The above described and  
21 hereby granted and release premises  
22 and every part and parcel thereof  
23 with the appurtenances dower and  
24 right of dower & courtesy of her hus-  
25 band & mother unto the said party of  
26 the second part his heirs and assigns  
27 against the parties of the first part  
28 and their heirs and assigns and  
29 against all and every person and  
30 persons whomsoever lawfully or un-  
31 lawfully claiming or to claim the  
32 same or any part or parcel thereof



shall and will warrant and forever defend the same to the said J. O. P. Legg and his heirs and assigns in witness whereof the parties of the first part has hereunto set their hands and seals this the 21st day of November 1888.

Signed Sealed and delivered in the presence of witnesses) Eliza J. Bailey Seal  
J. M. Parsons Elizabeth M. Barber Seal  
Teste Benith Bailey W. J. Bailey Seal

State of Virginia } ss  
County of Lee I J. M. Parsons a  
Justice of the Peace for the aforesaid  
County and State do certify that  
Eliza J. Bailey and Wm. Bailey her  
husband and Elizabeth M. Barber  
whose names are signed to the foregoing  
deed bearing date on the  
21st day of November 1888 acknowledged  
the same before me in my County  
and State aforesaid to be their act  
and deed and having the aforesaid  
writing fully explained they willing  
executed the same and do not  
wish to retract it. Given under my  
hand and seal this the 21st day of  
November 1888.

Francis M. Parsons J.  
Virginia Lee County Court Clerk's office  
Dec 10th 1888. The foregoing deed



bearing date Nov. 21<sup>st</sup> 1858 between W<sup>m</sup>  
J. Bailey and Eliza J. Bailey his wife &  
Elizabeth M. Barker of the first part  
and J. M. Lutz of the second part all  
of Lee County Va. was this day filed in  
this office and admitted to record upon  
the certificate of J. M. Parsons a Justice  
of the Peace for Lee County Va.

Test: John R. Gibson  
Clerk

A Copy - Test: S. H. Richmond Clerk



L. H. P. Legg,

From <sup>3</sup>/<sub>2</sub> Copy.

Seed

Wm J Bailey et al.

7.



# The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Malinda Leggurd Eliza J Bailey*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *3rd* Monday in *April*, 189*4*, to answer a bill in Chancery, exhibited against *them* in our said court by *Elizabeth M Barker*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *31st* day of *March* 189*4*, and in the *11* *8th* year of the Commonwealth.

*A B Munsey* Clerk.



Elisabeth M Barker

US. { SUBPENA  
IN CHANCERY.

Melinda T Legg et al

M G Ely p. q.

To 2<sup>nd</sup> April Rules 1894

Circuit Court.

Executed April 9 1894  
By Delinking copy  
of this Subpoena  
to Melinda Legg

W J Bailey  
N R Kirk D C  
for G E Delinking  
S B C



# The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Eliza J. Bailey, Malinda Legg*  
*and Elisabeth R. Smith*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *3rd* Monday in *May*, 189*4*, to answer a bill in Chancery, exhibited against *them* in our said court by *Elisabeth Barker*

And have then there this writ.

Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,

the *16th* day of *April*, 189*4*, and in the 11 *8th* year of the Commonwealth.

*A B Munsey* Clerk.



Elisabeth Barker

US.

{ SUBPENA  
IN CHANCERY.

Eliza J Bailey et al

M G Ely p. q.

To 2nd May Rules,

Circuit Court.

Not Executed Not  
found M R Kirk Ds  
for B E Heary  
S L B



The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Eliza J. Bailey, Malinda Legg*  
*and Elisabeth R. Smith*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *3<sup>rd</sup>* Monday in *April*, 189*4*, to answer a bill in Chancery, exhibited against *Them* in our said court by *Elisabeth Barker*,

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *16<sup>th</sup>* day of *April*, 189*4*, and in the *11<sup>8<sup>th</sup></sup>* year of the Commonwealth.

*A Copy Teste*

*A B Munsey* Clerk.

*A B Munsey Clerk*



vs.

}

SUBPŒNA  
IN CHANCERY.

p. q.

To..... Rules,  
Circuit Court.

For Elisabeth Smith